

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

FIDELITY AND DEPOSIT COMPANY,
OF MARYLAND, a Maryland Corporation,

Case No. 13-CV-1291

Plaintiff,

V.

EDWARD E. GILLEN COMPANY, GARY A. JACKSON, JULLANE J. JACKSON, and DLH CONSTRUCTION AND TRUCKING, INC.,

Defendants.

AFFIDAVIT OF SCOTT R. HALLOIN

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

I, Scott R. Halloin, Esq., being first duly sworn on oath, depose and state as follows:

1. I am one of the attorneys at the law firm of Halloin & Murdock, S.C., which represents the defendants in this matter. I make this affidavit on personal knowledge.

2. In United States District Court for the Northern District of Illinois, Eastern Division Case No. (10-C-3497), styled *The Meyne Company, etc. v. Edward E. Gillen Company*, Gillen ultimately recovered \$1,200,000 via settlement with its insurer. Attached hereto as Exhibit 1 is a true and correct copy of a January 16, 2015 email reflecting a financial entry that \$1,200,000.00 was

deposited with the United States District Court for the Eastern District of Wisconsin.

3. Attached hereto as Exhibit 2 is a true and correct copy of the January 22, 2015 judgment in Eastern District of Wisconsin Case No. (10-C-564) (DN 232).

4. Attached hereto as Exhibit 3 is a true and correct copy of the Court's Decision and Order in Eastern District of Wisconsin Case No. 10-C-564 (DN 231).

5. Attached hereto as Exhibit 4 is a true and correct copy of Document Number 32, the decision from the United States Court of Appeals for the Seventh Circuit, Case No. 15-1323, affirming the judgment of the district court.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Financial Statement of Account from the IOLTA Trust Account of the Law Offices of Jullane Jackson reflecting a balance of \$244,208.00.

7. Attached hereto as Exhibit 6 is a true and correct copy of the April 21, 2016 dismissal order in Cook County Case No. (12-CH-26089) styled *American State Equipment v. Chicago Park District, et al.*

8. Attached hereto as Exhibit 7 is a true and correct copy of the April 21, 2016 dismissal order in Cook County Case No. (12-CH-26094) styled *Finkbiner Equipment Company v. Paschen Gillen Skipper Marine Joint Venture, et al.*

9. Attached hereto as Exhibit 8 is a true and correct copy of the December 7, 2015 dismissal order in Cook County Case No. (12-CH-34829) styled *Growmark, Inc. v. Edward E. Gillen Company, et al.*

10. Attached hereto as Exhibit 9 is a true and correct copy of the September 24, 2015 dismissal order in Cook County Case No. (12-CH-28790) styled *John Sakash Company, Inc. v. Paschen Gillen Skipper Marine Joint Venture, et al.*

11. Attached hereto as Exhibit 10 is a true and correct copy of the March 15, 2016 dismissal order in Cook County Case No. (12-CH-25747) styled *King, LLC v. Paschen Gillen Skipper Marine Joint Venture, et al.*

12. Attached hereto as Exhibit 11 is a true and correct copy of the November 24, 2014 dismissal order in Cook County Case No. (12-CH-09167) styled *KK Integrated Logistics v. Public Building Commission of Chicago, et al.*

13. Attached hereto as Exhibit 12 is a true and correct copy of the September 9, 2015 dismissal order in Cook County Case No. (12-CH-16705) styled *Lannon Stone Products, Inc. v. DLH Construction and Trucking, Inc., et al.*

14. Attached hereto as Exhibit 13 is a true and correct copy of the December 23, 2014 order voluntarily dismissing Gillen's bond claim as to F&D in Cook County Case No. (12-CH-36178).

15. Gillen's lien claim in Cook County Case No. (12-CH-36178) was dismissed at the July 14, 2016 hearing.

16. American Marine Constructors, Inc. has entered into a confidential settlement with Gillen.

17. Basic Towing, Inc. has entered into a confidential settlement with Gillen.

18. Central Boat Rentals, Inc. has entered into a confidential settlement with Gillen.

19. Kiel Sand & Gravel, Inc. has entered into a confidential settlement with Gillen.

20. Kindra Lake Towing, LP has entered into a tentative confidential settlement with Gillen.

21. Kindra Marine Terminal, Inc. has entered into a tentative confidential settlement with Gillen.

22. Super Excavators, Inc. has entered into a confidential settlement with Gillen.

23. On July 14, 2016, Gillen and DLH obtained leave of court in Cook County Consolidated Case No. (12-CH-417) to file a motion to confirm the terms of these settlements, which are disputed by co-defendants. That motion is to be presented on August 31, 2016, and should take approximately six months to resolve.

24. F&D's Chicago counsel is also counsel for Paschen and the Paschen Gillen Skipper Marine Joint Venture. That counsel has long "rumored" that the following claims exist:

- a. \$1,540,000 of liquidated damage penalties imposed by the PBC;
- b. \$639,163 of minority deficiency liquidated damage penalties imposed by the PBC; and

c. \$105,520 for a deductive change order for a full time inspector for stone placement warranty work imposed by the PBC.

25. Attached hereto as Exhibit 14 is a true and correct copy of the March 12, 2013 Affidavit of James Habschmidt.

26. Attached hereto as Exhibit 15 is a true and correct copy of the November 7, 2014 Affidavit of James Habschmidt.

27. Attached hereto as Exhibit 16 are true and correct copies of the accountings provided by the PBC for the 31st Street Harbor Coastal Project, without attachments.

28. Attached hereto as Exhibit 17 is a true and correct copy of the following brief from Cook County Consolidated Case No. (12-CH-417), without attachments: Combined Reply of PBC to DLH; Kiel Sand & Gravel and Super Excavators and Paschen Gillen Skipper Marien (*sic*) Joint Venture.

29. Attached hereto as Exhibit 18 is a true and correct copy of the March 10, 2016 Notice of Deposit filed by the PBC in Cook County Case No. (12-CH-417) reflecting a deposit in the amount of \$5,047,204.39 with the Clerk of the Court.

30. Attached hereto as Exhibit 19 is a true and correct copy of the June 24, 2016 Notice of Deposit filed by the PBC in Cook County Case No. (12-CH-417) reflecting a deposit in the amount of \$516,500.56 with the Clerk of the Court.

FURTHER AFFIANT SAYETH NAUGHT.

s/ Scott R. Halloin

Scott R. Halloin, Esq.

Signed and sworn to before me
this 22nd day of July 2016.

s/ Kimberly M. Finnigan

Notary Public, State of Wisconsin

My commission expires December 4, 2016.

S:\Clients\Gillen\Eastern District of Wisconsin\Eastern District of Wisconsin (Case No. 13-CV-1291)\Pleadings\Aff. SRH
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